(41)

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION No. 29/2007

PETITIONERS

1. Kisan, S/o Goverdhan, aged about 40 years,
2. Sumitra Bai, W/o. Kisan Lal, aged about 38 years.
3. Anita, D/o Kisan Lal, aged about 23 years.

All R/o Village Bundela, P.S. Shivrinarayan, Tahsil Pamgarh, District – Janjgir-Champa (C.G.)

Versus

RESPONDENT

State of Chhattisgarh
Through : District Magistrate,
Janjgir-Champa (C.G.)

(PETITION UNDER SECTION 482 OF Cr.P.C.)

Appearance:

Shri N.K. Chatterjee, Advocate appears on behalf of Shri Jitendra Gupta, Counsel for the petitioners.

Shri M.P.S. Bhatia, Panel Lawyer for the State.

ORAL ORDER
(27.06.2007)

SUNIL KUMAR SINHA, J.

Heard.

This petition is directed against the order dated 02.12.2006 passed in Criminal Revision No.12/2006 by the Sessions Judge, Janjgir, District – Janjgir-Champa (C.G.), whereby, the said Court dismissed the revision filed by the petitioners and confirmed the order passed by the Magistrate on 13.4.2006 in Criminal Case No.1050/2005 (changed number-139/2006), by which, the said Court had framed the charges under Section 325 read with Section 34 of the IPC against the accused persons.

(M2)

Cr. M.P. No. 29/2007

The brief facts are that the petitioners are the accused persons in the aforesaid criminal case. A charge sheet was filed against them under Section 325 read with Section 34 of the IPC. It is stated that they had assaulted the injured namely Shyam Bai on 26/9/2005. After the incident, the complainant/victim was sent for medical examination and was also sent for X-Ray Examination as per the advise of the Doctor concerned. The X-Ray report would show that there was some fracture sustained by the victim.

Learned counsel for the petitioners submits that since the X-Ray report was obtained on 24.10.2005 i.e. almost after about 27 days, it should not have been relied on by the Courts below and the charges under Section 325 of the IPC should not have been framed and confirmed.

Needless to say that such grounds are not available at the stage of charge, because, if the contents of the report are disbelieved on various grounds raised by the petitioners, that shall amount to appreciating the evidence at the stage of framing of charges, which exercise cannot be done by the Court at that stage.

In the opinion of this Court, the Courts below have not committed any error of law warranting interference by this Court under its inherent jurisdiction.

The petition has no merit and the same is dismissed at the motion stage itself.

Sd/-
SUNIL KUMAR SINHA
Judge

Shyna